THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION No.8908 of 2003

Dated 12-10-2007

Between:

Chitrapu Venkata Rao.

....

PETITIONER

AND

The Government of A.P., rep. by its Secretary, Hyderabad, and others.

.....RESPONDENTS

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION No.8908 of 2003

O R D E R:

The petitioner herein claims to be in possession and enjoyment of Acs.1.58 cents of land situated at Malleswaram Village, Peravali Mandal, West Godavari District. It is stated that the said land was originally leased out in favour of his grand mother - Marre Achamma, W/o Marre Nandiyya, who was a member of fourth respondent -Harijana Co-operative Collective Farming Society Limited, Malleswaram. ('the Society' for short). The land in question forms part of unsurveyed Godavari Lanka lands, a large extent of which was leased out to the fourth respondent Society by the Collector, West Godavari. Pursuant thereto different lease deeds were executed among the members of the Society in respect of different extents of land. The said lease was extended from time to time and Marre Achamma continued in possession and enjoyment till her death in the year 1993 by paying the land revenue regularly every year. The petitioner, who is the son of the foster daughter of Marre Achamma, having

succeeded to the said land, continued in possession after the death of Marre Achamma. It is also stated that the petitioner made a representation before second respondent - Mandal Revenue Officer, Peravali, requesting to transfer the lease patta in his name.

However the Mandal Revenue Officer vide impugned notice dated 03.03.2003 informed the petitioner that the land in question belongs to one Marre Pallayya and since certain disputes in respect of title to the said land are pending before the District Collector, West Godavari, nobody should enter into the land and no cultivation should be made. Aggrieved by the same, the present writ petition is filed.

It appears that the impugned notice dated 03.03.2003 was issued pursuant to a claim made by fifth respondent herein contending that the land in question was leased out in favour of her father by name Marre Pallayya. The petitioner, while denying the claim of fifth respondent contended that Marre Pallayya has nothing to do with the land in question and therefore, the impugned notice issued by second respondent – Mandal Revenue Officer is arbitrary, illegal and without jurisdiction. Though no counter-affidavit is filed by any of the official respondents, the fifth respondent filed a counter-affidavit

stating that her father - Marre Pallayya was one of the member of the Society and he was granted a patta in respect of the land in question.

I have herd the learned counsel for both the parties.

Except the proceedings dated 09.01.1973 of the West Godavari Collectorate under which a lease was granted in favour of the fourth respondent Society for fasli 1382, nothing has been placed before this Court by either of the parties to show any lease is granted in favour of the individual members of the Society.

Hence I am not inclined to express any opinion as to the rival claims made by the petitioner and the fifth respondent.

At any rate even according to the impugned notice issued by second respondent – Mandal Revenue Officer, an enquiry is pending before the District Collector, West Godavari. In the circumstances, it is for the District Collector, West Godavari, to proceed with the enquiry and pass appropriate orders in accordance with law after giving an opportunity to the petitioner, fifth respondent as well as fourth respondent Society to put forth their respective claims. It is to be noted that while directing Rule Nisi on 06.05.2003, this Court granted interim

suspension of the impugned notice dated 03.03.2003 and the same continued to be in operation all through. The petitioner claims that pursuant to the said order he has been in continuous possession and enjoyment of the land in question. The said fact has not been disputed by the fifth respondent in her counter-affidavit.

In the circumstances, while leaving it open to the District Collector to proceed with the enquiry, it is made clear that the impugned notice dated 03.03.2003 shall remain suspended till such enquiry is completed and appropriate orders are passed in accordance with law.

The writ petition is accordingly disposed of. No costs.

(G. ROHINI, J)

Date:12-10-2007
ghn